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Attorneys for Plaintiff Fotohaus, LLC

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

FOTOHAUS, LLC,

Plaintiff,

Case No.

v.

FACTOR SYSTEMS, INC. D/B/A
BILLTRUST,

Defendant.

COMPLAINT FOR COPYRIGHT INFRINGEMENT
(INJUNCTIVE RELIEF DEMANDED)

Plaintiff FOTOHAUS, LLC, maintaining its principal place of business at 75 North Woodward Avenue, #80228, Tallahassee, Florida 32313, by and through undersigned counsel, brings this Complaint against Defendant FACTOR SYSTEMS, INC. (d/b/a "Billtrust"), maintaining its principal place of business at 100 American Metro Boulevard, Suite 150, Trenton, New Jersey 08619, for damages and injunctive relief, and in support thereof states as follows:

SUMMARY OF THE ACTION

1. Plaintiff FOTOHAUS, LLC ("Fotohaus"), brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Fotohaus' original copyrighted works of authorship.

2. Daniel Foster (“Foster”) is a professional photographer and the principal photographer and owner of Fotohaus. Foster creates highly unique abstract photographs that focus on lines and geometry that isolate visual elements such as geometric patterns or subsections of his subjects with the result that the original subjects are often unidentifiable in the final work. Foster’s photographs force the viewer to examine things from radically different perspectives by emphasizing striking lines and geometry at the focal point.

3. Foster’s work has been featured on the websites of National Geographic, the World Wildlife Fund, and Smithsonian magazine. Foster is a member of the Royal Photographic Society and his works have been featured 18 times in the highly-coveted “Explore” section of Flickr.com. This section displays a limited number of the site’s best photos each day.

4. Defendant FACTOR SYSTEMS, INC. (d/b/a "Billtrust") ("Billtrust") is a Delaware corporation with its principal place of business in New Jersey that offers automated, secure, cloud-based accounts receivable solutions.

5. Fotohaus alleges that Billtrust copied Fotohaus’ copyrighted work from the internet, and distributed and/or publicly displayed it in order to advertise, market and promote Billtrust's business activities.

JURISDICTION AND VENUE

6. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

7. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

8. Billtrust is subject to personal jurisdiction in New Jersey.

9. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Billtrust engaged in

infringement in this district, Billtrust resides in this district, and Billtrust is subject to personal jurisdiction in this district.

THE COPYRIGHTED WORK AT ISSUE

10. Fotohaus created a photograph entitled *New York Abstract Architecture*, which is shown below and referred to herein as the “Work”.



11. Fotohaus registered the Work with the Register of Copyrights on March 18, 2013 and was assigned the registration number VA 1-879-851. The Certificate of Registration is attached hereto as Exhibit 1.

12. At all relevant times Fotohaus was the owner of the copyrighted Work at issue in this case.

BILLTRUST'S INFRINGEMENT

13. On a date after the Work at issue in this action was created, but prior to the filing of this action, Billtrust copied the Work.

14. After Billtrust copied the Work, it made further copies and distributed and/or publicly displayed the Work on the internet to promote the sale of Billtrust's goods and services. Billtrust's infringement is evidenced by Exhibit 2, attached hereto.

15. Fotohaus never gave Billtrust permission or authority to copy, distribute or publicly display the Work.

16. Fotohaus notified Billtrust of the allegations set forth herein on July 30, 2015 and December 10, 2015. To date, Billtrust has failed to respond to Fotohaus's notices. Copies of the notices to Billtrust are attached hereto as Exhibit 3.

17. Fotohaus has engaged the undersigned attorneys and has agreed to pay them a reasonable fee.

COUNT I
COPYRIGHT INFRINGEMENT

18. Fotohaus incorporates the allegations of paragraphs 1 through 17 of this Complaint as if fully set forth herein.

19. Fotohaus owns a valid copyright in the Work at issue in this case.

20. Fotohaus registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

21. Billtrust copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Fotohaus' authorization in violation of 17 U.S.C. § 501.

22. Billtrust performed the acts alleged in the course and scope of its business activities.

23. Fotohaus has been damaged and the harm caused to Fotohaus has been irreparable.

WHEREFORE, Fotohaus prays for judgment against Billtrust that:

a. Billtrust and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;

b. Billtrust be required to pay Fotohaus its actual damages and Billtrust's profits attributable to the infringement, or, at Fotohaus's election, statutory damages, as provided in 17 U.S.C. § 504.

c. Fotohaus be awarded its attorneys' fees and costs of suit pursuant to 17 U.S.C. § 505; and

d. Fotohaus be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Fotohaus hereby demands a trial by jury of all issues so triable.

DATED: September 11, 2017

Respectfully submitted,

/s/ Joshua G. Graubart

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